

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

Canadian Pacific Railway  
120 South 6<sup>th</sup> Street, Suite 900  
Minneapolis, Minnesota 55402

**ATTENTION:**

David Huck  
Manager, Sustainability and Environmental Systems  
[david\\_huck@cpr.ca](mailto:david_huck@cpr.ca)

**Request to Provide Information Pursuant to the Clean Air Act**

The U.S. Environmental Protection Agency is requiring Canadian Pacific Railway and all subsidiaries and related entities (Canadian Pacific, CP or you) to submit certain information about its U.S. operation. Appendix A provides the instructions needed to answer this information request, including instructions for electronic submissions. Appendix B specifies the information that you must submit. You must send this information to us within 30 calendar days after you receive this request.

We are issuing this information request under Section 208(a) of the Clean Air Act (the CAA), 42 U.S.C. § 7542(a). Section 208(a) authorizes the Administrator of EPA to require the submission of information. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 5.

CP owns and operates locomotives throughout the United States potentially subject to the Clean Air Act. We are requesting this information primarily to determine whether you are complying with the provisions in 40 C.F.R. Part 92 and Part 1033.

At this time, EPA Region 5 is not accepting any hard-copy document deliveries. If possible, we ask CP to upload all required information to the secured web-link shared with you

at the time you received this request. If you did not receive a web-link, or if you are having technical difficulties, you should contact Ethan Chatfield at [chatfield.ethan@epa.gov](mailto:chatfield.ethan@epa.gov) to make arrangements to submit your response.

CP must submit all required information under an authorized signature with the following certification:

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to 18 U.S.C. §§ 1001 and 1341.

As explained more fully in Appendix C, you may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B for any part of the information you submit to us. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth at 40 C.F.R. Part 2, Subpart B. If you do not assert a business confidentiality claim when you submit the information, EPA may make this information available to the public without further notice.

This information request is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information from specific individuals or entities as part of an administrative action or investigation.

We may use any information submitted in response to this request in an administrative, civil or criminal action.

Failure to comply fully with this information request may subject CP to an enforcement action under Section 205 of the CAA, 42 U.S.C. § 7524.

You should direct any questions about this information request to Ethan Chatfield at  
(312) 886-5112.

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Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance  
Division

## **Appendix A**

When providing the information requested in Appendix B, use the following instructions and definitions.

### **Instructions**

1. Provide a separate narrative response to each question and subpart of a question set forth in Appendix B.
2. Precede each answer with the number of the question to which it corresponds and, at the end of each answer, identify the person(s) who provided information used or considered in responding to that question, as well as each person consulted in the preparation of that response.
3. Indicate on each document produced, or in some other reasonable manner, the number of the question to which it corresponds.
4. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.
5. Where information or documents necessary for a response are neither in your possession nor available to you, indicate in your response why the information or documents are not available or in your possession, and identify any source that either possesses or is likely to possess the documents or information.
6. If information not known or not available to you as of the date of submission later becomes known or available to you, you must supplement your response. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or incorrect, you must notify EPA as soon as possible.

### **Electronic Submissions**

To aid in our electronic recordkeeping efforts, we request that you provide all documents responsive to this information request in an electronic format according to paragraphs 1 through 6, below. These submissions are in lieu of hard copy.

1. Provide all responsive documents in Portable Document Format (PDF) or similar format, unless otherwise requested in specific questions. If the PDFs are scanned images, perform at least Optical Character Recognition (OCR) for “image over text” to allow the document to be searchable. Submitters providing secured PDFs should also provide unsecured versions for EPA use in repurposing text.
2. When specific questions request data in electronic spreadsheet form, provide the data and corresponding information in editable Excel or Lotus format, and not in image format. If Excel or Lotus formats are not available, then the format should allow for data to be used in calculations by a standard spreadsheet program such as Excel or Lotus.

3. Provide submission to the secure web-link provided by EPA.
4. Provide a table of contents of all electronic documents submitted in response to our request so that each document can be accurately identified in relation to your response to a specific question. We recommend the use of electronic file folders organized by question number.
5. Please submit documents claimed as confidential business information (CBI) in separate file folders apart from the non-confidential information. This will facilitate appropriate records management and appropriate handling and protection of the CBI. Please follow the instructions in Appendix C for designating information as CBI.
6. Certify that the attached files have been scanned for viruses and indicate what program was used.

### **Definitions**

All terms used in this Request for Information will have their ordinary meaning unless such terms are defined in the CAA, 42 U.S.C. §§ 7401 *et seq.*, or applicable mobile source regulations, including those found at 40 C.F.R. Parts 92 and 1033.

1. The terms “document” and “documents” and “documentation” means any object that records, stores, or presents information, and includes: email; writings; memoranda; contracts; agreements; records; or information of any kind, formal or informal, whether handwritten or typed, whether in computer format, memory, or storage device, or in hardcopy. All documents in hard copy shall also include attachments to or enclosures with any document.
2. The term “Canadian Pacific” or “CP” or “you” or “your” includes, but is not limited to: Canadian Pacific Railway, Canadian Pacific Railway Limited, Canadian Pacific Railway Company, Canadian Pacific Railroad, Soo Line Corporation, Soo Line Railroad Company, and any assumed business names, agents, representatives, employees, contractors, subsidiaries, holding companies, or other entities that performed work or acted in any way on behalf of, are related to, or acted at the direction of any of these companies.
3. The term “Railroad” means any rail carrier or any commercial entity that operates locomotives to transport passengers or freight.

## **Appendix B**

### **Information You Are Required to Submit to EPA**

Canadian Pacific (CP) must submit the following information pursuant to Section 208(a) of the CAA, 42 U.S.C. § 7542(a):

1. Provide a detailed, clearly labeled map depicting all rail lines, rail yards, and rail maintenance shops owned, leased and/or operated by CP in the United States.
2. Provide the name and address of all locomotive shops that CP owns, leases or controls and is capable of doing any work on any locomotive engine operating in the United States. Provide also the name and address of any locomotive shops not under CP's control with which the company contracts to have work done on any if its locomotive engines operating in the United States. Indicate the type and volume of work each of these shops performs on behalf of CP.
3. Provide a copy of any "incidental use exemptions" obtained by CP in accordance with 40 C.F.R. Part 1033.650 that is applicable to any of CP's current operating U.S. locomotive fleet.
4. Provide an electronic, unlocked, Microsoft Excel-compatible spreadsheet that contains the following information for each locomotive owned by, operated by and/or leased by CP for any locomotive operated in the United States (for any amount of time) in the past 5 years. Provide all information in a single spreadsheet with a single tab, if feasible.
  - a. the company/entity that owns and operates the locomotive;
  - b. the locomotive identification number(s);
  - c. the locomotive and locomotive engine serial number(s);
  - d. the classification or type of the locomotive (line-haul or switch);
  - e. the location(s) where each locomotive is typically operated (include city/state and railyard if switcher locomotive);
  - f. the date the engine and locomotive was originally manufactured;
  - g. if the engine was replaced, the date of engine replacement and manufacture date of the new engine;
  - h. the date the locomotive was acquired by CP;
  - i. the model of the locomotive and locomotive engine;
  - j. the engine family;
  - k. the original engine power rating;
  - l. a description of any and all emission controls devices or elements of design currently utilized or installed on the locomotive and the dates of install for each (including but not limited to turbos);
  - m. the manufacturer(s), part number(s), and date(s) of any and all locomotive 'Tier' emissions kits currently installed on the locomotive;
  - n. the date each of the engine power assemblies were last replaced on each locomotive;

- o. all date(s) when the engine has been remanufactured (as defined by 40 C.F.R. §1033.901);
  - p. the full name and address of any and all remanufacturer(s);
  - q. the current applicable EPA Tier Emission Standard (see 40 C.F.R. §1033.101) for each engine;
  - r. the current engine power rating (if different than k above);
  - s. the approximate number of miles and MW-hrs each of the locomotives travelled in calendar year 2019;
  - t. whether the locomotive engine contains an automatic engine start/stop system (i.e. idle controls) that shuts off the locomotive after 30 minutes of idling (or less);
  - u. whether the locomotive has been equipped with an Auxiliary Power Unit (APU) and if yes, when the APU was installed;
  - v. number of years remaining in the locomotive's "useful life," as the term is defined in 40 C.F.R. §§1033.901 and 1033.101(g); and
5. Provide a copy of the maintenance instructions for each type of locomotive emissions 'tier' kit listed in Request 4(m), above.
  6. Provide a copy of all work orders and capital appropriation requests for any locomotive engine work costing greater than \$50,000 and completed between January 1, 2016 and the date of this Request.
  7. Provide a copy of all power assembly replacement records (maintenance/installation records, receipts, invoices, etc.) for the past 8 years for any power assembly replaced in any locomotive in CP's fleet that was manufactured after January 1, 1973.
  8. Provide a copy of all in-use testing reports for any emissions testing completed from January 1, 2016 to the date of this request, on any CP locomotive engine.
  9. Provide a copy of the most recent Locomotive Engine Remanufacturer Audit required under 40 C.F.R. §1033.335 for any engine remanufactured by CP or a subsidiary or related entity.
  10. Provide a copy of any and all reports completed in the past 12-months that described CP's locomotive fleet in the United States (such as Rolling Stock Reports, Annual Reports, etc.).

## **Appendix C**

### **Confidential Business and Personal Privacy Information**

#### **Assertion Requirements**

You may assert a business confidentiality claim covering any parts of the information requested in the attached Appendix B, as provided in 40 C.F.R. § 2.203(b).

Emission data provided under Section 208 of the CAA, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2.

“Emission data” means, with reference to any source of emissions of any substance into the air:

Information necessary to determine the identity, amount, frequency, concentration or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing;

Information necessary to determine the identity, amount, frequency, concentration or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and

A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. § 2.301(a)(2)(i)(A), (B) and (C).

To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any document for which you make a claim of confidentiality should be marked by attaching a cover sheet stamped or typed with a caption or other suitable form of notice to indicate the intent to claim confidentiality. The stamped or typed caption or other suitable form of notice should employ language such as “trade secret” or “proprietary” or “company confidential” and indicate a date, if any, when the information should no longer be treated as confidential. Information covered by such a claim will be disclosed by EPA only to the extent permitted and by means of the procedures set forth at Section 208(c) of the CAA and 40 C.F.R. Part 2. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. EPA will construe the failure to furnish a confidentiality claim with your response to the information request as a waiver of that claim, and the information may be made available to the public without further notice to you.



## **Determining Whether the Information Is Entitled to Confidential Treatment**

Pursuant to 40 C.F.R. Part 2, Subpart B, EPA may send you a letter asking that you support your CBI claim. If you receive such a letter, you must respond within the number of days specified by EPA. Failure to submit your comments within that time would be regarded as a waiver of your confidentiality claim or claims, and EPA may release the information. If you receive such a letter, EPA will ask you to specify which portions of the information you consider confidential by page, paragraph and sentence. Any information not specifically identified as subject to a confidentiality claim may be disclosed to the requestor without further notice to you. For each item or class of information that you identify as being CBI, EPA will ask that you answer the following questions, giving as much detail as possible:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a special event or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question number 1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to confidentiality of the information? If so, please attach a copy of the determination.
6. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.
7. Is there any other information you deem relevant to EPA's determination regarding your claim of business confidentiality?

If you receive a request for a substantiation letter from the EPA, you bear the burden of substantiating your confidentiality claim. Conclusory allegations will be given little or no weight in the determination. In substantiating your CBI claim(s), you must bracket all text so claimed and mark it "CBI." Information so designated will be disclosed by EPA only to the extent

allowed by and by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

### **Personal Privacy Information**

Please segregate any personnel, medical and similar files from your responses and include that information on a separate sheet(s) marked as “Personal Privacy Information.” Disclosure of such information to the general public may constitute an invasion of privacy.